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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of )  
 )  
 Amendment of Part 90 of the )  
 Commission's Rules to Adopt )  
 Regulations for Automatic )  
 Vehicle Monitoring Systems )

PR Docket No. 93-61

**SUPPLEMENTAL COMMENTS OF THE CONSUMER ELECTRONICS  
 GROUP OF THE ELECTRONIC INDUSTRIES ASSOCIATION**

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") hereby responds to the Commission's invitation to interested parties to comment upon ex parte presentations submitted by PacTel Teletrac ("PacTel") and by Southwestern Bell Mobile Systems, Inc. ("SBMS").<sup>1</sup> Unfortunately, these presentations do not provide any significant additional information regarding the interrelationship between existing Part 15 products and the proposed Part 90 services. EIA/CEG continues to believe that adoption of the proposed Part 90 rules would cause serious injury to those who make, sell, and use Part 15 products.

The documents filed by PacTel and SBMS provide different views of measures that should be adopted as part of a decision to convert the interim authority for an Automatic Vehicle Monitoring ("AVM") service into a permanent authority for a much-expanded service known as Location and Monitoring Service ("LMS"). PacTel and

<sup>1</sup> FCC Public Notice, DA 94-129 (Feb. 9, 1994).

SBMS argue over the number of licenses that should be granted in each LMS service area, the amount of spectrum each licensee should be granted, what kinds of "build-out" requirements should be imposed, etc. But all of this discussion, like other recent filings by MobileVision, MFS Network Technologies, and Pinpoint Communications Inc. and so many of the earlier filings by LMS proponents, gives short shrift to the very legitimate and substantial concerns that have been articulated with regard to the effects of LMS on the operation of Part 15 devices in the 902-928 Mhz band.

PacTel's January 26 submission presents a new proposal for LMS use of this band. At the outset, PacTel states that its proposed approach "improves the environment for Part 15 devices."<sup>2</sup> Yet EIA/CEG has been unable to find any additional reference in PacTel's submission to Part 15 devices or any information that explains how (in PacTel's view) the environment for Part 15 devices will be improved. With all due respect to PacTel, an ipse dixit assurance is not a sufficient answer to the detailed pleadings filed earlier in this proceeding by EIA/CEG, TIA, the Part 15 Coalition, and other Part 15 interests.<sup>3</sup> Such an assurance is far from a sufficient grounding for the

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2 Letter from John R. Lister, PacTel Teletrac, to Ralph A. Haller, FCC, at 1 (Jan. 26, 1994).

3 A related point: PacTel apparently has not been especially cooperative in arranging for "real-world" interference tests, as had been proposed several months ago by the Chief of the Private Radio bureau. See TIA Ex Parte Report (Jan. 5, 1994).

Commission to take an action that is inconsistent with its prior express encouragement of Part 15 device operation in the 902-928 Mhz frequency band.<sup>4</sup>

SBMS's filing discusses Part 15 issues at slightly greater length, but the net effect is still to underscore the inadequacy of the LMS proponents' consideration for Part 15 interests. SBMS acknowledges that "the interference issues involving AVM systems and Part 15 devices will require significant further study to resolve."<sup>5</sup> Nonetheless, SBMS finds it "likely" that the interference problem will be "small," in part because "[s]ome [unspecified] interference rejection techniques may be available to address narrowband interference from Part 15 devices."<sup>6</sup>

In short, the recent ex parte submissions do virtually nothing to repair the deficiencies of the LMS proponents' arguments insofar as Part 15 issues are concerned. The plain facts are that (1) the Commission expressly encouraged development of Part 15 products for the 902-928 MHz band, (2) massive sums have been spent over the past several years in the design and development of Part 15 products, precisely as the Commission had hoped, and (3) consumers have demonstrated a strong interest in owning and using the kinds of innovative products that have resulted from this investment. Now, a handful of LMS proponents are asking that they not only be authorized to share the same spectrum but also be awarded a superior right to it. To put it another way, they

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4     See Motor Vehicle Manufacturers Ass'n v. State Farm, 463 U.S. 29, 42 (1983); Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (1970).

5     See Report of Mobile and Portable Radio Research Group at 9, appended to SBMS Ex Parte Report (Feb. 2, 1994).

6     Id.

seek to persuade the Commission to make a particular spectrum allocation by promising that the new service will not be vulnerable to interference from Part 15 products, but they also want to preserve the freedom later to invoke Section 15.5 of the Commission's rules to require that use of Part 15 devices be terminated when interference situations do arise.

The Commission cannot write on a clean slate when it makes its decision in this proceeding. Any decision made in this docket inevitably must take account of the decisions the Commission has made in the past -- and of the actions that businesses and consumers have taken in reliance upon the Commission's decisions. On the present

record, EIA/CEG respectfully submits that the Commission's only responsible choice is to decline to authorize LMS in the 902-928 Mhz band.

Respectfully Submitted,

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